



UNITED STATES ENVIRONMENTAL PROTECTION AGENCY

REGION VII
726 MINNESOTA AVENUE
KANSAS CITY, KANSAS 66101

September 3, 1997

CERTIFIED MAIL
RETURN RECEIPT REQUESTED

Mr. James F. Hart
Plant Manager
Monsanto Company
P.O. Box 7040
St. Louis, Missouri 63177-7040

RE: Notification of Violation
Monsanto - J. F. Queeny Facility
1700 South Second Street
St. Louis, Missouri
EPA ID No. MOD004954111

Dear Mr. Hart:

The purpose of this letter is to issue a **Notice of Violation (NOV)** to the Monsanto Corporation (Monsanto) J. F. Queeny facility in St. Louis, Missouri. This NOV is being issued to Monsanto as a result of violations of the Hazardous and Solid Waste Amendments (HSWA) Permit issued by the U. S. Environmental Protection Agency (EPA) under the authority of Sections 3004(u) and 3005(c) of the Resource Conservation and Recovery Act (RCRA), 42 U.S.C. § 6922 (b) and 42 U.S.C. § 6924 (u), which incorporates by reference portions of the RCRA Hazardous Waste Management Facility Permit issued by the Missouri Department of Natural Resources (MDNR) on November 8, 1989. Together, the EPA (HSWA portion) and MDNR permits constitute the RCRA permit for the J.F. Queeny facility.

During a facility visit on May 8, 1997, at which representatives of both EPA and MDNR were present, Monsanto officials stated that two portions of the facility had been sold or leased to other parties. Specifically, the Former Bulk Chemical Storage Terminal property has been leased to the Frito Lay Company, and the Coal Storage Yard has been sold to the Schaeffer Manufacturing Company. Both the Former Bulk Chemical Storage Terminal and the Coal Storage Yard contain areas identified as Solid Waste Management Units (SWMU) for the purposes of the HSWA portion of the RCRA permit.



R00064252
RCRA Records Center



MDNR Standard Permit Condition XIV, Transfers, which is incorporated by reference into the HSWA portion of the permit, prohibits the transfer of rights under the permit without a "new permit being issued." The permit condition defines transfer of rights under the permit as "a change in ownership of the facility, a transfer of operational control of the facility, a transfer of operating rights under the permit, the sale of substantially all of the assets of the owner operator which relate to the facility ...". Further, General Permit Condition II states: "Before transferring ownership or operation of a facility during its operating life...the owner or operator must notify the Department and the new owner or operator." Additionally, any transferees of Monsanto's ownership or operator interests under the RCRA permit are required to submit an application for a new permit at least ninety (90) days prior to the time the potential owner/operator wishes to be issued a new permit.

Both the sale of the Coal Storage Yard and the lease of the Former Bulk Chemical Storage Terminal properties clearly constitute transfer of ownership or operational control of the facility by Monsanto, and are thus governed by the permit conditions described above. Monsanto has failed to provide written notification to either EPA or MDNR regarding these transfers, in violation of its RCRA permit. EPA views this as a serious violation because Monsanto has previously been informed by EPA of its responsibility to inform EPA or MDNR of any transfers of facility property. EPA also takes issue with the lease and sale of these properties not only because Monsanto has taken actions in violation of applicable permit conditions, but also because in the areas where ownership or operational control were transferred there are known SWMUs and/or releases of hazardous waste and/or hazardous constituents that indicate potential risks to human health and the environment.

For example, data from the RCRA Facility Investigation (RFI) indicates that soils at the Former Bulk Chemical Storage Terminal are contaminated by both benzo(a)pyrene, a known carcinogen, and lead above health based levels. Further, as EPA pointed out to Monsanto in the Notice of Deficiency letter dated July 18, 1997, because the vertical extent of contamination has not yet been defined in this area and the environmental assessment in this area is incomplete, additional work will be required in this area pursuant to the HSWA portion of the RCRA permit.

The Former Bulk Chemical Storage Terminal property has been covered with approximately eight inches of gravel. Food delivery trucks for the lessee, Frito Lay, use this area for a parking lot and there is considerable potential for the generation of fugitive dust from this activity. The gravel layer placed does not minimize the infiltration of precipitation which may further leach contaminants from the soil to the underlying groundwater. The potential for human exposure to contaminants which exceed health risk-based concentrations is high and the infiltration of precipitation continues to leach contaminants to groundwater.

In the Former Coal Storage Yard property that was sold to Schaeffer Manufacturing, concentrations of ethylbenzene, xylenes, and chlorobenzene have been detected in subsurface samples. Additionally, trichloroethene has been detected in groundwater at concentrations exceeding Safe Drinking Water Act (SDWA) Maximum Contaminant Levels (MCL). Schaeffer

Chemical has placed a picnic table and break area outdoors on the southern end of this property in an unpaved area. Currently, EPA is not able to confirm that the source of the volatile organic compounds (VOC) detected in subsurface soils and groundwater is not due to surface soil contamination. Because of this, EPA believes that the potential for human exposure to VOCs in excess of health risk-based criteria exists, particularly in the location of the picnic and break area.

Until such time as the RCRA permit is modified or reissued to establish the transferees of Monsanto's ownership or operational control as permittees, Monsanto will remain liable to perform all requirements of the permit on the transferred properties. Within ten (10) days of Monsanto's receipt of this NOV, Monsanto must provide a written response to EPA that states whether it intends to remain responsible for performance of all requirements of the RCRA permit on the transferred properties. The response must also include copies of the lease agreement between Monsanto and Frito Lay, and the purchase/sales agreement with Schaeffer Chemical. Additionally, Monsanto must provide copies of any additional agreements between the company and Schaeffer Chemical and Frito Lay that describe or establish responsibility to perform the requirements of the RCRA permit on the transferred properties.

Monsanto should submit three (3) copies of its response to:

JoAnn Heiman
Chief, RCRA Permit and Compliance Branch
U.S. Environmental Protection Agency
Region VII
726 Minnesota Avenue
Kansas City, Kansas 66101

One copy of Monsanto's response shall be submitted to the Missouri Department of Natural Resources (MDNR) at the following address:

Cathy Kemper
Director
Hazardous Waste Program
Missouri Department of Natural Resources
P.O. Box 176
Jefferson City, Missouri 65102

Please note that EPA reserves its right to pursue enforcement actions and assess penalties of up to \$27,500 per day for violations of RCRA. If you have any questions in regard to this letter please contact Stephanie Doolan, of my staff, at (913) 551-7719.

Sincerely,

JoAnn M. Heiman
Chief, RCRA Permitting and
Compliance Branch

cc: Larry Ludwig, Environmental Coordinator, Schaeffer Manufacturing Co.
Tom Herrmann, President, Schaeffer Manufacturing Co.
Keith Rowe, Technical Resources, Frito Lay
Howard Bunch, EPA Counsel
Richard Nussbaum, Hazardous Waste Program, MDNR
Kathy Flippin, Hazardous Waste Program, MDNR
Brian McCurrin, Hazardous Waste Program, MDNR
Robert Cheever, Environmental Superintendent, Monsanto
Gary Vandiver, Project Manager, Monsanto

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